

THOMAS M. NEWELL.

[To accompany bill H. R. C. C. 15, and S. No. 409.]

DECEMBER 19, 1856.

Mr. TAYLOR, from the Committee of Claims, made the following

REPORT.

The Committee of Claims have had the bill reported for the relief of Thomas M. Newell by the Court of Claims under consideration, and now report:

The evidence submitted to the Court of Claims, and which is now before us, shows that the claim of Thomas M. Newell would have been at any time paid by the Navy Department, if application had been made for payment by the claimant before his claim was preferred to Congress, and that the only obstacle to its payment at the time the attention of the department was called to it, whilst the claim was pending before the Court of Claims, grew out of the fact that it is a rule of all the departments of the government that nothing shall be done in relation to any claim which had been carried before Congress, until its final action on it.

Under the circumstances shown, it is evident that the claim of Thomas M. Newell was not one which ought to have been presented to Congress or carried before the Court of Claims, and your committee are of opinion that it would be improper to set a precedent unnecessarily by passing an act for the payment of a claim under existing laws, when its payment had not been at any time refused by the proper accounting officer. All that is necessary to enable the claimant to be paid the amount he is entitled to by law, is to rid him from the effect of his premature and unnecessary application to Congress for relief, and your committee, therefore, report a bill to that effect, by way of substitute for the one before us, and recommend its passage,

NAVY DEPARTMENT, *August 11, 1856.*

SIR: I have the honor to acknowledge the receipt of your communication of the 6th instant, sending the bills and papers relating to the claims of Joseph D. Beers, Thomas M. Newell, George A. Ma-gruder, and John P. Baldwin, and desiring to be put in possession of

all facts known to this department in relation to these claims, which go to set forth their nature, merits and demerits.

The facts as stated in the memorial of Mr. Beers are believed to be mainly correct, and I send for your information the opinion of the Attorney General of November 14, 1851, in the case, which governed the department in its refusal to allow him interest or damages.

In the case of Thomas M. Newell, I am informed by the Fourth Auditor that if he had made application to his office his pay as claimed would have been allowed him; but instead of so doing, he applied to Congress, and it is a rule of the accounting officers that where an appeal has been made to Congress it is not proper to anticipate its action, and the claim has not since been allowed.

The claim of George A. Magruder having been several times refused by the department, it was by him carried to Congress, and for a full understanding of the case I transmit herewith, a copy of the report in the matter from the department to the Naval Committee of the Senate, and copies of the letters referred to in said report; also the Fourth Auditor's letter on the subject.

In relation to the claim of John P. Baldwin, the department has no information whatever on the subject.

I return, herewith, the papers in the several cases, the bills having been returned on the 7th instant.

I am, very respectfully, your obedient servant,

J. C. DOBBIN.

Honorable J. R. GIDDINGS,

*Chairman of the Committee of Claims,
House of Representatives.*

REPORT No. 27.

*To the Hon. the Senate and House of Representatives of the United States
in Congress assembled:*

The Court of Claims respectfully presents the following documents as the report in the case of Thomas M. Newell *vs.* the United States:

1. The petition of the claimant.
2. Documents presented by the claimant as proof.
3. Opinion of the court.
4. Bill for the relief of claimants.

By order of the court of claims.

In testimony whereof, I have hereunto set my hand and affixed
[SEAL.] the seal of said court at Washington, this 10th day of July,
A. D. 1856.

SAMUEL H. HUNTINGTON,
Chief Clerk Court of Claims.